

## **R131. Capitol Preservation Board (State), Administration.**

### **R131-11. Preservation of Free Speech Activities.**

#### **R131-11-1. Purpose.**

(1) The purpose of this rule is to:

(a) ~~[provide for the public use of the Capitol Hill Complex for free speech activities;]~~ promote and encourage free speech on the Capitol Hill Complex;

(b) preserve the right of every person to exercise free speech and freedom of assembly as protected by the constitutions of the state of Utah and the United States, within the Capitol Hill Complex subject to lawful time, place and manner rules regarding free speech activities necessary to protect the public health, safety and welfare, including safety and security considerations, the rights of others to exercise free speech and freedom of assembly, and minimizing the disruption to governmental business;

~~[(b)]~~(c) facilitate public assembly and communication between people at the Capitol Hill Complex;

~~[(e)]~~(d) designate areas under the Capitol Preservation Board's (Board) control, including those areas delegated from the Legislative Management Committee of the Capitol Hill Complex for free speech activities as specified in this rule that are necessary to protect the public health, safety and welfare, including safety and security considerations, the rights of others to exercise free speech and freedom of assembly, and minimizing the disruption to governmental business; and

~~[(d)]~~(e) establish guidelines to promote and encourage [accommodate] free speech activities and public assembly on the Capitol Hill Complex.

(2) This rule is intended to further the following governmental interests:

(a) to promote and encourage [accommodate and establish guidelines for] free speech activities on the Capitol Hill Complex;

(b) to provide for lawful time, place and manner rules regarding free speech activities necessary to protect the public health, safety and welfare;

(c) to provide safety and security of the person(s);

~~[(b)]~~(d) to minimize disruption to or interruption of the conduct of state business;

~~[(e)]~~(e) to maintain unobstructed and efficient flow of pedestrian and vehicular traffic between and within the Capitol Hill Complex[;] in order to provide safety and security of persons, emergency vehicle access, and assure accessibility to public services;

(f) to provide all persons their guaranteed right of free speech and freedom of assembly without harm or interruption;

~~[(d)]~~(g) to [control] inform persons of their responsibilities regarding littering, damage to, and vandalism of the Capitol Hill Complex[and control noise and other disruptive impacts on the performance of state business]; and

~~[(e)]~~(h) to ensure the health, safety, and welfare of all persons visiting or using the Capitol Hill Complex.

#### **R131-11-2. Authority.**

(1) This rule is adopted pursuant to the authority granted to the Board under Section 63C-9-301. The executive director may adopt policies and procedures to implement this rule.

#### **R131-11-3. Definitions.**

The definitions of rule R131-2-3 shall apply to this rule R131-11. In addition, the following definitions shall apply for purposes of this rule:

(1) “Free Speech” and “Freedom of Assembly” means the exercise of free speech and freedom of assembly as protected by the constitutions of the state of Utah and the United States.

[(1) “Free Speech Activity” means an event held by a person or group in the exercise of protected freedom of speech, freedom of assembly, or other First Amendment protections at the Capitol Hill Complex, including demonstrations, rallies, leafleting, press conferences, speeches, debates, vigils, parades, and marches. The terms “solicitation” and “events” as defined in R131-2-3 are not free speech activities.]

(2) “Free Speech Activity” or “Free Speech Activities” means the use of an area of the Capitol Hill Complex for a demonstration, rally, leafleting, press conference, vigil, march or parade that is available for such activity under this rule, by one or more persons for constitutionally protected free speech or assembly.

(a) “Advanced Planned Free Speech Activity” means a free speech activity that can be reasonably scheduled in advance of its occurrence, such that the executive director may lawfully require compliance with certain requirements as specified in this rule.

(b) “Short-Notice Free Speech Activity” means a free speech activity that arises out of, or is related to events or other public issued which cannot be reasonably anticipated far enough in advance of the occurrence to reasonably allow compliance with the requirements for an advanced planned free speech activity.

(3) “Demonstration” means the assembly of a group of individuals that join together to express a point of view openly.

(4) “Rally” means to hold an open gathering of a group of individuals of similar purpose to join together to express a point of view openly.

[(2)](5) “Leafleting” means the continuous unsolicited distribution of leaflets, buttons, handbills, pamphlets, flyers or any other written or similar materials indiscriminately to pedestrians[,] or passers by. [~~or on vehicles.~~]

(6) “Press Conference” is an organized formal assembly called by an individual or group to announce or express a point of view to the public utilizing the press and other media.

(7) “Vigil” means an assembly of an individual or individuals who come together to demonstrate their solidarity by an occasion or devotional watching or observance.

(8) “March” or “Parade” means the organized assembly of individuals who are celebrating or expressing a point of view while moving from one location to another.

(9) “Public Areas” are all areas on the Capitol Hill Complex which are open to the public.

[—(3) “Public Free Speech Areas” means those locations of the Capitol Hill Complex which are open to the public for free speech activities. Public free speech areas are:

—(a) the Capitol Hill Grounds;

—(b) the south grand staircase, south, east and west terraces of the Capitol;

—(c) the east and west entrances to the Capitol;

—(d) the Capitol Rotunda;

—(e) those areas of the main public foyers of the House and Senate buildings delineated on “Map A” on file with the office of the Board dated September 1, 2006 and incorporated herein by reference; and

—(f) the plaza between the House and Senate buildings.

—(4) Areas of the Capitol Hill Complex not expressly designated in this rule and on “Map A” are not public free speech areas.]

#### **R131-11-4. Free Speech and Freedom of Assembly; In General,**

(1) Unless specifically regulated by this rule as to time, place or manner, all free speech and freedom of assembly may occur in all areas of the Capitol Hill Complex in any lawful form or manner as guaranteed by the constitutions of the state of Utah and the United States.

#### **R131-11-[4]5. Time, Place, and Manner of Free Speech Activities.**

~~[(1) General. The time, place, and manner of free speech activities may be limited for public health, safety, welfare and security reasons and to further the interests stated in R131-11-1.~~

~~—(a) Free speech activities on the Capitol Hill Complex may only be conducted in the public free speech areas.]~~

(1) Free Speech and Assembly Promoted and Encouraged. Free speech and freedom of assembly, as protected by the constitutions of the state of Utah and United States, is promoted and encouraged throughout the Capitol Hill Complex. Free speech activities, as specifically defined in this rule, are subject to lawful time, place and manner rules regarding free speech activities necessary to protect the public health, safety and welfare, including safety and security considerations, the rights of others to exercise free speech and freedom of assembly, and minimizing the disruption to governmental business.

~~[(b)](2) Subject to Capitol Hill Complex Facility Use Rule, Exception. Free speech activities shall be subject to [the general requirements of] R131-2-6, except that, in the case of conflict, the provisions of this rule R131-11 shall control.~~

~~[(c) In general, public assembly and free speech activities shall conform to all applicable laws and requirements, including health, safety, fire, building and other codes or limitations.~~

~~—(d) Occupancy limits as posted in or applicable to public free speech areas will dictate, unless otherwise limited for public safety, the number of persons who can assemble in the public free speech areas. Under no circumstance will occupancy limits be exceeded. State Capitol security personnel shall use reasonable efforts to ensure compliance with occupancy, safety, and health requirements.~~

~~—(e) Safety requirements as used in this rule R131-11-4(1) include safety and security requirements made known to the executive director by the Utah Department of Public Safety or the federal government for the safety and security of special events and/or persons on the Capitol Hill Complex.]~~

~~[(2)](3) Time[and Place].~~

(a) Free speech activities held outdoors may take place [at the public free speech areas of the Capitol Hill Grounds between the hours of 7:00 a.m. and 11:00 p.m. daily.]24 hours a day subject to duration requirements specified in this rule.

~~[(i) In addition to times listed in subsection (2)(a) above, free speech activities may be held on the Capitol Hill Grounds concurrent with after hour government action, such as stay of execution or commutation proceedings and legislative meetings. Such after hour free speech activities must end at the conclusion of the concurrent government proceeding.]~~

(b) Free speech activities held indoors may take place [in the public free speech areas] during the hours such public [free speech] areas are open to the public, generally between 8:00 a.m. to [6:00]8:00 p.m., during after hour legislative sessions, and during committee and agency meetings until such sessions or meetings are adjourned.

(c) In order to accommodate as many groups as may make requests to conduct free speech activities on a given day, a free speech activity in a [given]specified public [free speech] area

may be limited to two hours when necessary to accommodate another pre-scheduled group in the same public free speech area. The time of a free speech activity in a specified public area may be shortened to two hours in duration if necessary to accommodate another group in the same public area that has qualified for a short notice free speech activity.

~~[(i) The number of groups or participants on the plaza may be limited when necessary to comply with occupancy limits, fire, safety, and health codes, and applicable security requirements;]~~

(4) Place.

(a) Health, safety and welfare restricted areas that may not be reserved for a free speech activity are the vehicular traveled portions of roads, roadways or parking lots, areas directly in front of or adjacent to parking garages' entrances or exits, paths of egress or access to emergency stairs and emergency egress hallways, areas under construction which are hazardous to non-construction workers, and those specific portions of the Capitol Hill Complex that contain storage, utilities and technology servicing the Capitol Hill Complex or other areas, which either must be available for prompt repair, are not open for public use or represent a danger to members of the public.

(b) In order to protect the public health, safety and welfare and allow for public accessibility to and the conduct of state business, a demonstration, rally, and vigil that does not use any candles, is allowed in the following locations:

(i) Capitol Hill grounds - However, candles with a wax collection container may be used for a vigil;

(ii) south grand staircase of the Capitol;

(iii) south, east and west terraces of the Capitol;

(iv) the Capitol rotunda;

(v) the plaza between the House and Senate Buildings - However, candles with a wax collection container may be used on the lawn and gravel areas only.

(vi) the main public foyer of the Senate Building;

(vii) the State Office Building auditorium; and

(viii) the main public foyer of the House Building.

(c) In order to protect the public health, safety and welfare and allow for public accessibility to and the conduct of state business, a demonstration, rally, and vigil where candles are used, parade and march are allowed in the following locations:

(i) Capitol Hill grounds;

(ii) the plaza between the House and Senate Buildings - However, the plaza shall only be used for the beginning or the end of a parade or march, and candles will not be permitted on the plaza except on the lawn and gravel areas and with a wax collection container.

(d) Notwithstanding any other provision of this rule, there is no registration requirement for free speech leafleting. In order to protect the public, health, safety and welfare and allow for public accessibility to and the conduct of state business, free speech activity leafleting, as defined in this rule, is allowed on the Capitol Hill Complex in the areas open to the public, without interference from capitol security, provided that it is done in a nonaggressive manner and does not prevent other individuals from passing along sidewalks and through doorways. The state is allowed to enforce any and all applicable statutes and ordinances regarding blocking public sidewalks, blocking hallways, disorderly conduct, blocking entrances to public buildings, garage entries, assault, battery and the like consistent with the requirements of the constitutions of the

state of Utah and the United States. Leafleting is not allowed by placing leaflets on vehicles on the Capitol Hill Complex.

~~[(3)]~~(5) Manner.

~~[(a)]~~ General Requirements. ~~The provisions of rule R131-2-6 which apply to all persons using the Capitol Hill Complex including state officers, legislators, and employees, also apply to persons and groups participating in free speech activities, except that, in the case of conflict, the provisions of this rule R131-11 shall control.~~

~~[(b)]~~(a) Registration and Scheduling.

(i) All free speech activities shall comply with the following requirements, except that leafleting shall not be subject to any registration requirements.

~~[(i)]~~ Public free speech areas may be scheduled for free speech activities up to 14 calendar days

(ii) An advanced planned free speech activity shall register as soon as reasonably possible, but not less than seven (7) days in advance of the free speech activity by registering with the executive director's office or online at [www.utahstatecapitol.utah.gov](http://www.utahstatecapitol.utah.gov).

~~[(ii)]~~(iii) Persons registering will provide the following information: the name of the sponsoring organization; the name and contact information of a contact person or agent; the type of free speech activity; the date, time and duration of the free speech activity; the public [free speech] area requested for use; the number of anticipated participants; and a list of equipment and services to be used in connection with the free speech activity. Registration shall be on a form prepared by the executive director.

~~[(iii)]~~(iv) If a person or group fails to register due to ~~[the spontaneous nature of the free speech activity]~~ a short-notice free speech activity, they may still conduct the free speech activity provided it does not create a problem of public safety or interfere with the time and location of a previously scheduled free speech activity in the same public [free speech] area and meets all the other requirements of this rule. In the case of such problem of public safety or interference, the executive director will coordinate with the applicant in reasonable efforts to find an alternative reasonable time or location.

~~[(e)]~~(b) Priority.

(i) The scheduling assignment of public [free speech] areas shall be made on a first-come, first-serve basis.

(ii) In the case of scheduling conflicts, first priority in the use of the public [free speech] areas shall be given to government business and/or state sponsored activities where the authorized governmental official is reserving the public area for an expressed governmental or state need. Free speech activities shall be given priority over community service, commercial and private activities. ~~[In case of a scheduling conflict, the executive director shall provide alternative times and locations for the proposed activity to the extent reasonably feasible.]~~ In the case of such problem of public safety or interference, the executive director will coordinate with the applicant in reasonable efforts to find an alternative reasonable time or location.

(iii) No group or individual will be denied access to or use of a public [free speech] area unless the proposed free speech activity violates this rule, applicable law, conflicts with a scheduled state sponsored activity, or conflicts with the time and location of a previously scheduled free speech activity.

~~[(d)]~~ Leafleting.

~~[(i)]~~ Leafleting is allowed in public free speech areas.

~~[(ii)]~~ Leafleting is not allowed by placing leaflets on vehicles.

~~—(e) Noise. All indoor free speech activities and those held on the plaza must maintain noise levels not exceeding 85 decibels or a more restrictive limit established by applicable laws or ordinances.~~

~~—(f) Law Enforcement. All free speech activities shall comply with applicable state and federal laws and regulations and with applicable Salt Lake City ordinances. Law enforcement and State Capitol security personnel may intercede to enforce said laws, or to prevent injury to persons and property, and to further the interests stated in rule R131-11-1.]~~

(c) Consistent with the protections of the Utah and United States constitutions in order to preserve the free speech rights of others, outbursts or similar actions which disrupts or is likely to disrupt any government meeting or proceeding, is prohibited.

**[R131-11-5. Indemnification.**

~~—(1) Individuals and organizations using the Capitol Hill Complex do so at their own risk and shall indemnify and hold harmless the state from and against any and all suits, damages, claims or other liabilities due to personal injury or death, and from damage to or loss of property arising out of or resulting from the conduct of free speech activities on the Capitol Hill Complex.]~~

**R131-11-6. Expedited Appeals-Free Speech Activities.**

(1) Claims eligible for expedited appeal. The following determinations of claims regarding a free speech activity may be appealed as provided below:

(a) A determination by the executive director that a proposed event or activity is a commercially related special event and not exempted as a free speech activity;

(b) A claim by an applicant that the executive director's denial, or condition of approval, of a proposed route, time or location for a free speech activity constitutes a violation of this rule or an unlawful time, place or manner restriction; or

(c) Any other claim by an applicant that any action by the state regarding the proposed free speech activity impermissibly burdens constitutionally protected rights of the applicant, sponsor, participants or spectators.

(2) Process for Expedited Appeal:

(a) The Board acknowledges an obligation to process appeals regarding a free speech activity promptly so as to not unreasonably inhibit or unlawfully burden constitutionally protected activities. Any time limit stated below may be lengthened if agreed to by the appellant and the executive director.

(i) As soon as reasonably possible, but no later than two working days after receipt of a completed registration, the executive director shall issue a determination, which may include lawful conditions, or notice of denial of the registration application.

(b) The executive director may deny the requested activity if:

(i) the requested activity does not comply with the applicable rules;

(ii) the registrant attempts to register a free speech activity, but the executive director determines that it is a commercial activity;

(iii) the event would disrupt, conflict or interfere with a state sponsored activity, a time or place reserved for another free speech activity, the operation of state business, and such determination is in accordance with applicable constitutional provisions; and/or

(iv) the event poses a safety or security risk to persons or property and such determination is in accordance with applicable constitutional provisions.

(c) The executive director may place conditions on the approval that alleviates such concerns and such conditions are in accordance with this rule and applicable constitutional provisions.

(d) (i) If the applicant disagrees with a denial of the request or conditions placed on the approval, the applicant may appeal the executive director's determination by delivering the written appeal and reasons for the disagreement to the executive director.

(ii) Within three working days after the executive director receives the written appeal, the executive director may modify or affirm the determination.

(iii) If the matter is still unresolved after the issuance of the executive director's reconsideration determination, the applicant may appeal the matter, in writing, within ten calendar days to the Board's Budget Development and Board Operations Subcommittee Chair who will determine the process of the appeal and provides for a determination within five working days.

(e) If the applicant for a free speech activity needs a more expeditious process of an appeal, upon written request of the applicant, the Attorney General or designee may advise the executive director, the Board's Budget Development and Board Operations Subcommittee Chair or the Board's Chair or designee of the need to make an immediate consideration of the appeal.

#### R131-11-7. Expedited Review of Free Speech Concern.

(1) If any person claims to be inhibited from the exercise of constitutionally protected free speech by a public officer, officer or other person on the Capitol Hill Complex, such person is advised to promptly notify the executive director. The executive director will then take reasonable steps in an attempt to resolve the matter.